

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

LYLE VANDER SCHAAF, Personal  
Representative of the Estate of  
GREGORY VANDER SCHAAF,  
deceased,

Plaintiff,

vs.

MIDWEST TRANSFER & LOGISTICS, LLC  
and MARK RHODES,

Defendants.

Case No. 07 C 6555

Judge Moran

Magistrate Judge Cox

**DEFENDANTS' AFFIRMATIVE DEFENSE TO PLAINTIFF'S COMPLAINT AT LAW**

NOW COME the Defendants, MIDWEST TRANSFER & LOGISTICS, LLC and MARK RHODES, by and through their attorneys, RYAN, RYAN & LANDA, and for their Affirmative Defense to Plaintiff's Complaint at Law state that at the time and place alleged in Plaintiff's Complaint, the Plaintiff's decedent, Gregory Vander Schaaf, failed to exercise reasonable care and caution for his own safety and was guilty of one or more of the following acts and/or omissions that was the sole proximate cause of the subject injuries and alleged damages:

- a. Operated his motor vehicle without keeping a proper and sufficient lookout;
- b. Failed to decrease speed so as to avoid colliding with another vehicle in violation of ILCS Chapter 625, Section 5/11-601;
- c. Failed to drive his vehicle as nearly as possible entirely within a single lane without first ascertaining that movement from such lane could be made safely, in violation of ILCS Chapter 625, Section 5/11-709; and
- d. Failed to drive upon the right half of the roadway, in violation of ILCS Chapter 625, Section 5/11-701.

WHEREFORE, the Defendants, MIDWEST TRANSFER & LOGISTICS, LLC and MARK

RHODES, pray that if the Plaintiff's decedent is found to be more than 50% comparatively negligent for injury or damage he sustained, Plaintiff is barred from recovery. If the Plaintiff's decedent is found to be 50% or less at fault, any judgment entered in Plaintiff's favor be reduced by an amount in proportion to the fault of the Plaintiff's decedent.

/s/ Scott R. Landa

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